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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

) IB Docket No. 96-111

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) CC Docket No. 93-23  
 ) RM-7931

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) File No. ISP-92-007

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REPLY COMMENTS OF  
GTE AIRFONE INCORPORATED

GTE Airfone Incorporated ("GTE Airfone"), hereby submits its Reply to Comments filed by thirty-three interested parties on July 15, 1996, with respect to the above-captioned proceeding. GTE Airfone supports the Commission's tentative conclusion that U.S. earth stations should be licensed to use non-U.S. satellite capacity based upon an examination of reciprocal competitive opportunities. GTE Airfone believes that reciprocity should be the

cornerstone used to define and govern any market entry test adopted by the Commission.

GTE Airfone supports the Commission's decision to tackle this complex issue. However, GTE Airfone believes that given the myriad services and carriers involved, the Commission should consider the issues in a series of NPRMs. In addition, GTE Airfone believes it is essential that the Inmarsat proceeding<sup>1</sup> be concluded prior to the Commission's decision to apply any variant of the ECO-Sat standard to Inmarsat provided services.

## I. INTRODUCTION

GTE Airfone was the first U.S. 800 MHz commercial aeronautical service provider to operate under Part 22 and is a leader in providing global communications service for commercial air travelers. GTE Airfone provides aeronautical services utilizing both air-ground ("ATG") and satellite frequencies.

Satellite service is a key component of GTE Airfone's effort to provide commercial air travelers with a truly global, seamless communications network. Domestically, GTE Airfone utilizes its own Part 22 licensed system to provide ATG service. GTE Airfone currently uses satellite capacity to provide ATG service only on international flights as FCC regulations prohibit Inmarsat use domestically. This leaves GTE Airfone without satellite

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<sup>1</sup>Provision of Aeronautical Services via the Inmarsat System (NPRM), CC Docket No. 87-75, FCC 96-161, (released May 9, 1996). (hereinafter "Inmarsat NPRM").

capabilities for domestic flights.<sup>2</sup> An agreement between GTE Airfone and COMSAT provides GTE Airfone with access to the Inmarsat aeronautical satellites. A GTE Airfone call which is carried over an Inmarsat satellite will, in the first instance, be received by a COMSAT earth station and then routed to its final destination via the PSTN. However this transmission path is only possible within the range of the satellites at which COMSAT earth stations are oriented.

GTE Airfone offers the Commission a unique perspective in this proceeding, that of the satellite capacity user rather than the satellite capacity provider.<sup>3</sup> From GTE Airfone's perspective, there is an absolute need for an approval process which rewards reciprocity.<sup>4</sup>

## II. THE AVAILABILITY OF RECIPROCAL SERVICE SHOULD BE THE OVERRIDING FACTOR TO BE

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<sup>2</sup>AMSC is the only current domestic MSS operator in the U.S. While COMSAT proffers AMSC as a competitor, at least for the provision of aeronautical service, it is not. AMSC does not provide essential safety and cockpit communications and is not inter-operable with INMARSAT-based service providers.

<sup>3</sup>Fourteen of the comments submitted dealt directly with MSS services. Of these, all were filed by satellite operators or service providers.

<sup>4</sup>The adoption of a reciprocity based market entry test is consistent with recent Commission decisions allowing foreign entities to enter the U.S. market based on the competitive opportunities available to U.S.-licensed systems abroad. See, e.g., Market Entry and Regulation of Foreign-Affiliated Entities, Report and Order, 11 F.C.C. Rcd. 3873 (1995). See also, Vision Accomplished, Inc. 11 F.C.C. Rcd. 3716 (1995); IDB Worldcom Services, Inc. et al., 10 F.C. RCD. 7278 (Int'l Bur. 1995); AT&T et al., 8 F.C.C.Rcd. 1669 (Int'l Fac. Div'n 1993); IDB Communications Group, Inc., et al., 6 F.C.C.Rcd. 2932 (Com. Car. Bur. 1991).

**CONSIDERED IN WHATEVER MARKET ENTRY TEST  
IS ADOPTED FOR IGOS.**

The Commission should promote competitive opportunities for the United States by conditioning U.S. earth station use of non-U.S. satellites upon the availability of reciprocal service by the non-U.S. Inmarsat service provider. This policy should be strictly applied regardless of what market entry test is eventually adopted for Inmarsat and other IGOS.

No clear consensus emerges from the comments as to which market entry test is best suited to MSS.<sup>5</sup> GTE Airfone submits that the FCC's guiding light should be its stated mission, "to promote competition, prevent anti-competitive conduct... and open foreign communications markets."<sup>6</sup> GTE Airfone believes that the best way to do this is by carefully analyzing the competitive opportunities for a given service in the home market.

COMSAT argues in its comments<sup>7</sup> that the U.S. market is "insignificant" and thus opening the U.S. market to foreign

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<sup>5</sup>Several Commenters emphasize that the ECO-Sat "home market"/"route market" analysis is ill-suited to the "global nature" of MSS (See, e.g. Comments of Airtouch at p. 4; Motorola Satellite Communications, Inc. and Iridium, Inc. at p. 15; BT North America Inc. at p. 10; ICO Global Communications at p. 21; L/Q Licensee, Inc. and Loral Space & Communications Ltd. at p. 13.) The "critical mass" analysis was criticized for its failure to provide sufficient certainty to applicants. (See, e.g. Comments of ICO Global Communications at p. 24; Kokusai Denshin Denwa Co., Ltd. at p. 2.)

<sup>6</sup>Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States (NPRM), IB Docket No. 96-111, FCC 96-210 (released May 14, 1996), Appendix A.

<sup>7</sup>See Comments of Comsat at p. 22.

satellites would not provide sufficient incentive to foreign governments and satellite providers to open their markets to U.S. carriers. While a FCC policy based on reciprocity can not compel a foreign government to adopt a pro-competitive approach, it will certainly provide additional impetus.<sup>8</sup> The alternative suggested by Comsat is untenable: open our doors to non-U.S. carriers with closed home markets and forego any possible impetus for change.<sup>9</sup>

A clear illustration of how a lack of reciprocity will injure U.S. competitive opportunities is provided by examining the relationship between certain non-U.S. Inmarsat signatories and GTE Airfone.<sup>10</sup> Some entities which are signatories to Inmarsat are,

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<sup>8</sup>GTE Airfone points out that de facto barriers to U.S. entry into foreign markets may be erected by either the foreign administration or by the Inmarsat service provider and that the foreign administrations may also erect de jure barriers. All such barriers should be removed before a non-U.S. satellite is permitted access to the U.S. market.

<sup>9</sup>COMSAT's IGO statements are, at times, inconsistent. For example, while COMSAT argues at footnote 53 that ICO Global Communications, of which Inmarsat is part owner, is a private company and not an IGO affiliate, it urges at page 31 the FCC to permit existing authorizations for the use of INTELSAT and Inmarsat services to automatically transfer to such "spin-offs".

<sup>10</sup>This is merely one example of how the actions of an Inmarsat signatory can constitute a barrier to a market. In many locales around the world, GTE Airfone must enter into a relationship with a specific Inmarsat signatory in order to obtain satellite capacity or access to an earth station. If that entity denies GTE Airfone's request, GTE Airfone is precluded from use of the facility necessary to support its international aeronautical service. Unfortunately, to GTE Airfone's knowledge, the only Inmarsat signatory that has an obligation to provide unfettered access to Inmarsat capacity is COMSAT. Viewed in this context, the FCC's linkage of reciprocity to allowing access to U.S. markets could play an essential role in motivating Inmarsat signatories towards more pro-competitive policies.

at the same time, the sole providers of aeronautical communications services aboard non-U.S. aircraft associated with their nations. GTE Airfone has entered into negotiations with several such entities regarding the use of their earth stations in conjunction with GTE Airfone's network. For obvious reasons, they are unwilling to permit GTE Airfone to access their services aboard non-North American aircraft. This effectively precludes GTE Airfone from providing ATG aeronautical service via Inmarsat on most non-North American carriers. As a result, GTE Airfone is currently denied the ability to provide a competitive, reliable global aeronautical service via Inmarsat capacity.<sup>11</sup> The FCC, by opening the U.S. market without requiring reciprocity, will confer upon non-U.S. signatories the ability to offer world wide service to air travelers aboard any plane, while GTE Airfone is foreclosed from making the same offering. Such a result would run afoul of the Commission's primary goal in this proceeding.

### III. ADOPTION OF RULES AT THIS TIME WOULD BE PREMATURE

Airfone concurs with the conclusions reached by several commenters that the rulemaking needs to be re-structured<sup>12</sup> and the

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<sup>11</sup>COMSAT earth stations are located only in the United States and thus do not provide a world wide coverage area. Therefore, GTE Airfone must rely on other Inmarsat service providers whenever the COMSAT earth stations cannot be utilized to provide service where needed.

<sup>12</sup>See, e.g. Comments of Charter (FCC should use this proceeding for fact and idea gathering to be followed up by a further NPRM); Transworld (NPRM is more akin to an NOI); Airtouch (proposed framework is not workable given the unique characteristics of Big

schedule changed.<sup>13</sup> More fundamentally, GTE Airfone believes that the outcome of this proceeding as it applies to Inmarsat and other IGOs must await a decision in the Inmarsat proceeding.

The nexus between the Inmarsat Proceeding and this proceeding is revealed both by the Inmarsat NPRM and the comments filed in this proceeding. First, in the Inmarsat NPRM the Commission made it clear that Inmarsat's ability to enter the US domestic aeronautical market hinges upon the outcome of BOTH proceedings.<sup>14</sup> While the interdependence of these two proceedings is undeniable, it is clear that the Inmarsat NPRM is the seminal proceeding. If the FCC adopted a policy precluding Inmarsat from providing domestic service in the Inmarsat proceeding, all efforts expended in this proceeding divining the appropriate ECO-Sat test for domestic Inmarsat service would be rendered fruitless and the test moot. Second, the strong nexus between these two proceedings is evidenced by COMSAT's extensive comment which devotes the majority

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LEOs); Orion Network Systems, Inc. (IGO entry into the U.S. market should be considered in a separate rulemaking devoted exclusively to that issue); WorldCom (Commission should issue a second NPRM which narrows the issues and more clearly defines the proposed rules); and ICO Global Communications (proposed ECO-Sat Test conflicts with international trade policies).

<sup>13</sup> GTE Airfone agrees with commenters arguing that it may be prudent to await the conclusion of the current World Trade Organization efforts before reaching a decision in this proceeding. See, e.g. Comments of GE American Communications (proceeding should be deferred pending the outcome of the current round of WTO negotiations); and Airtouch (Commission action should wait until the end of February of next year, when the multilateral trade talks are scheduled to end.)

<sup>14</sup> See, Inmarsat NPRM, footnote 27.

of its 43 pages to discussing the appropriate regulatory treatment of Inmarsat, which is clearly the province of the Inmarsat proceeding.<sup>15</sup>

#### IV. CONCLUSION

This rulemaking proceeding has the potential to dramatically affect the future of satellite communications in this country and around the world. The comments reflect that the scope of the NPRM is so broad as to not accommodate the detailed analysis required for each type of satellite service and satellite service provider. GTE Airfone respectfully submits that multiple NPRMs are necessary to address individual requirements of the various services and the specific needs of the various service providers. GTE Airfone also suggests that the Inmarsat proceeding should be concluded prior to the adoption of any Inmarsat/IGO ECO-Sat standard. If the Commission does decide to move forward with this Rulemaking at this time, GTE Airfone submits that the Commission

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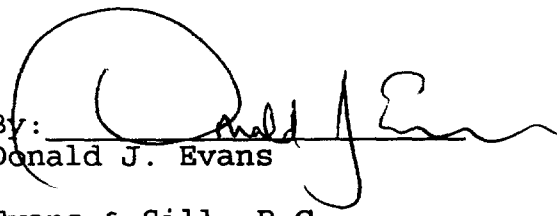
<sup>15</sup>Other commenters also provided extensive discussion of the appropriate regulatory treatment of Inmarsat. See, e.g. Comments of AMSC Subsidiary Corporation; BT North America Inc.; COMSAT Corporation; ICO Global Communications; Motorola Satellite Communications, Inc. and Iridium, Inc.; and TRW, Inc.



adopt as its overriding principle that the U.S. market will not be opened to non-U.S. satellites unless competitive opportunities are offered to U.S. satellite carriers and service providers abroad.

Respectfully submitted,

GTE AIRFONE INCORPORATED

By:   
Donald J. Evans

Evans & Sill, P.C.  
1627 Eye Street, N.W.  
Suite 810  
Washington, D.C. 20006  
(202) 293-0700

Its Attorneys

Dated: August 16, 1996

CERTIFICATE OF SERVICE

I, Jill Canfield, do hereby certify that a copy of the foregoing "REPLY COMMENTS OF GTE AIRFONE INCORPORATED" was served by first-class U.S. mail, postage pre-paid, on this 16th day of August, 1996, upon the following:

Lon C. Levin  
Vice President and Regulatory Counsel  
AMSC Subsidiary Corporation  
10802 Parkridge Boulevard  
Reston, VA 22091

Bruce D. Jacobs  
Glenn S. Richards  
Robert L. Galbreath  
Fisher Wayland Cooper Leader & Zaragoza, LLP  
2001 Pennsylvania Ave., N.W.  
Suite 400  
Washington, D.C. 20005  
Counsel for AMSC Subsidiary Corporation

Joel S. Winnik  
Hogan & Hartson L.L.P.  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004-1109  
Counsel for BT North America Inc.

Stephen L. Goodman  
Halprin, Temple, Goodman & Sugrue  
Suite 650 East Tower  
1100 New York Avenue, N.W.  
Washington, D.C. 20005  
Counsel for Airtouch

Howard D. Polsky  
6560 Rock Spring Drive  
Bethesda, MD 20817  
COMSAT Corporation

Cheryl A. Tritt  
Morrison & Foerster, LLP  
1000 Pennsylvania Avenue, N.W.  
Suite 5500  
Washington, D.C. 20006  
Counsel for ICO Global Communications

Peter A. Rohrbach  
555 Thirteenth St., N.W.  
Washington, D.C. 20004  
GE American Communications, Inc.

Kokusai Denshin Denwa Co., LTD.  
3400 International Drive, N.W.  
Suite 3K-02 (INTELSAT Bldg.)  
Washington, D.C. 20008-3098

William D. Wallace  
Crowell & Moring  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Counsel for L/A Licensee, Inc. and Loral Space &  
Communications Ltd.

Thomasina Rivera  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036-1795  
Counsel for Motorola Satellite Communications, Inc.  
and Iridium, Inc.

Jack E. Robinson  
President  
National Telecom Satellite Communications, Inc.  
Clearwater House  
2187 Atlantic Street  
Stamford, CT 06902  
National Telecom Satellite Communications, Inc.

Terri B. Natoli  
Fleischman and Walsh, L.L.P.  
1400 Sixteenth Street, N.W., Suite 600  
Washington, D.C. 20036  
Counsel for Newcomb Communications, Inc. and Mobile  
Datacom Corporation

Albert Halprin  
Halprin, Temple, Goodman & Sugrue  
Suite 650 East Tower  
1100 New York Avenue, N.W.  
Washington, D.C. 20005  
Counsel for Orbcom


Alan Y. Naftalin  
Gregory C. Staple  
Koteen & Naftalin, L.L.P.  
1150 Connecticut Avenue, N.W.  
Suite 1000  
Washington, D.C. 20036  
Counsel for TMI Communications and Company, Limited  
Partnership

Norman P. Leventhal  
Leventhal, Senter & Lerman  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006

Robert S. Koppel  
Tally Frenkel  
15245 Shady Grove Road  
Suite 460  
Rockville, MD 20850  
WorldCom, Inc.

Robert E. Conn  
Shaw Pittman Potts & Trowbridge  
2300 N Street, N.W.  
Washington, D.C. 20037-1128  
Counsel for Charter Communications International,  
Inc. and Transworld Communications, Inc.

Thomas J. Keller  
Eric T. Werner  
Verner Liipfert Bernhard McPherson and Hand, Chartered  
901 15th Street, N.W.  
Suite 700 Washington, D.C. 20005-2301  
Counsel for Orion Network Systems, Inc.

  
Jill Canfield